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July 23, 2021

Via ECF

Honorable Madeline Cox Arleo, U.S.D.J.
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: Marlon A. Pena v. TD Auto Finance LLC
Civil Action No.: 2:19-cv-21492-MCA-MAH

Dear Judge Cox Arleo:

We represent the Defendant TD Auto Finance LLC (“TDAF”) in the above civil action.

On December 20, 2019, Plaintiff filed an Application to Proceed in District Court Without Prepaying Fees or Costs (hereafter, the “Application”), together with his Petition (the “Petition”) to Confirm Arbitration Award against TDAF. (ECF No. 1). On July 28, 2020, Your Honor denied Plaintiff’s Petition (the “July 28 Order”). (ECF No. 4). The docket in this civil action, however, reflects neither a ruling on the Application nor the District Court’s receipt of the filing fee for Plaintiff’s Petition.

Following Your Honor’s March 16, 2021 (the “March 16 Order”) denial of Plaintiff’s Motion for Reconsideration of the July 28 Order, on April 6, 2021, Plaintiff appealed Your Honor’s March 16 Order¹. (ECF Nos. 9 and 10). On July 15, 2021, the 3rd Circuit issued an Opinion and entered Judgment summarily affirming Your Honor’s March 16 Order, holding that the record showed that Plaintiff did not produce a valid arbitration award and agreement with TDAF. (See Court of Appeals Docket #21-1670, No. 10).

Despite the then pending appeal to the 3rd Circuit, on July 19, 2021 Plaintiff filed a Motion for relief from judgment (“Motion for Relief”) dated July 14, 2021 in this Court. (ECF No. 14). Plaintiff’s time to seek rehearing from the 3rd Circuit’s Judgment does not expire until July 29, 2021.

We write to respectfully request that the Court rule on the Application. If the Court grants the Application, Plaintiff will proceed *in forma pauperis* and we understand Plaintiff’s filings, including Plaintiff’s Motion for Relief, may be subject to a stay to allow initial screening by the Court pursuant to 28 U.S.C. § 1915(e)(2)(B).

We thank the Court for its time and attention to this matter.

¹ On April 22, 2021, Plaintiff filed an amended notice of appeal that referenced his appeal from the July 28 Order, in addition to the March 16 Order. (ECF No. 12).

BROWN & CONNERY, LLP

Respectfully submitted,

BROWN & CONNERY, LLP

s/ Jennifer A. Harris

Jennifer A. Harris

cc: Marlon A. Pena - (via certified & regular mail)